HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.
C 482 No. 1028/06
Smt. Rakhi & others
Vs
State of Uttaranchal & others

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 18.12.06

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL
C-482 NO. 1028 OF 2006

1. Smt. Rakhi,
   W/o Sompal Singh, D/o Ram Kunwar Singh,
2. Ram Kunwar Singh, S/o Unknown,
3. Amar Singh, S/o Ram Kunwar Singh,
4. Attar Singh, S/o Ram Kunwar Singh,
5. Dharamveer Singh, S/o Ram Kunwar Singh,
6. Anil, S/o Ram Kunwar Singh,
7. Mannu, S/o Unknown,

All R/o Harthala Colony, Ambedkar Nagar, Moradabad, P.S. Civil Line, Moradabad, District-Moradabad (U.P.). .....Applicants.

Vs.

1. State of Uttaranchal.
2. Sompal, S/o Sri Ghasi Ram, R/o Ngar Panchayat, Mahuwadabara, P.S. Jaspur, District-Udham Singh Nagar. .....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Ashwani Negi, counsel for the applicants and A.G.A. for the State.

2. By the present petition filed under Section 482 of the Code of Criminal Procedure, the applicant has prayed for quashing the summoning order dated 29-6-2006 passed by Civil Judge (JD)/J.M. Kashipur, District Udham Singh Nagar in Criminal Case No. 354 of 2006 Som Pal Singh Vs. Smt. Rakhi and others under Section 147, 323, 504, 506, 392 IPC.

3. Briefly stated, the complaint was filed by Sri Som Pal-respondent no. 2 against his own wife Smt. Rakhi and his whole family.

4. A counter affidavit has been filed on behalf of respondent no. 2, where it has been stated that on 17th July, 2005, the marriage took place according to Hindu Rites and Customs at Moradabad and thereafter, on 13th June, 2006 applicant no. 1's father Ram Kunwar Singh, brother Amar Singh, Attar Singh, Dharamveer Singh, brother-in-law Mannu Singh and elder sister Rekha W/o Mannu Singh came to his house and took away his wife and orally told that she will come back after one month. They have also taken a sum of Rs. 10,000/-, hence the complaint was lodged.

5. Under Sections 200 and 202, parties were examined and the Judicial Magistrate on 29th Jun3, 2006 has summoned the accused/applicants.

6. Counsel for the applicants have submitted that applicant Som Pal has implicated all the family members, when in point of fact, some of them are residing outside.

7. In ***Medchl Chemicals and Pharma (P) Ltd. v. Biological E. Ltd. and others (2003) 3 SCC 269,*** the Apex Court has been observed as under:

> *"19. Considering the factual aspect of the matter, we unhesitatingly state, however, that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short-circuited. We, thus, without expressing any*

opinion on the merits of the case allow the appeal and set aside the impugned order of the high Court and restore the complaint. The learned trial Magistrate shall proceed with the complaint and dispose of the same in accordance with the law with utmost expedition. Be it clarified however that observations as above in this judgment be not taken as an expression of any opinion of ours."

8. Since it is complaint case, therefore, it is relevant to quote following portion of ***Smt. Husna and others vs. State of U.P. and others [2006 (56) ACC 659]:***

"7. The petition is finally disposed of witht eh direction to the petitioner to appear before the Court concerned within 15 days of passing of this order and if they do so, the Court will permit them to file appearance bonds to his satisfaction for their regular appearance in the case."

9. In view of the aforesaid the applicants are directed to present themselves before the Chief Judicial Magistrate and ensure their presence by furnishing personal bonds to the satisfaction of the Magistrate concerned for their regular appearance in the case. No coercive method shall be adopted against the applicants.

Subject to the observations made above, application under Section 482 Cr.P.C. is dismissed.

(Rajesh Tandon, J.)

18th December, 2006
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